

CHAPTER 8 LONG CAUSE TRIALS

Rule 5.8.1

Long Cause Trials

A. Time Limit. Any trial with a time estimate exceeding one court day is a long cause trial.

B. Trial Setting. The court will set a trial date based on the time estimate at the final CMC, or following the MSC. Inaccurate time estimates may result in a mistrial and sanctions.

C. Trial Preparation. Rule 5.8.2 lists the preparation required prior to a long cause trial. The parties are to prepare and submit the Mandatory Trial Statement, which can be found at www.sdcourt.ca.gov under family law forms, together with the List of Proposed Exhibits, List of Witnesses, Notice of Motions in Limine and Objections to Exhibits of Petitioner/Respondent, not later than seven calendar days prior to trial.

D. Assignment to a Different Court for Trials Estimated Over Two Days

1. When a trial is estimated to last two or more days, the court in which the case is currently assigned may assign the case to either another family law department or to the general civil calendar.

2. The Monday prior to trial call, the court will conduct a pretrial conference to verify that the parties have complied with Rule 5.8.2.

3. Continuances of the trial date may only be granted in the family law court prior to assignment for trial, and only upon a showing of good cause.

4. If the case is to be assigned to the general civil calendar, trial call will be on a Friday, in the Presiding Department of the Central Courthouse. The case may be trailed until a trial department becomes available. The trial judge may confer with counsel on that Friday, but no witnesses will be examined.

5. All in limine motions will be heard by the judge assigned for trial.

(Adopted 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2007; Rev. 1/1/2008; Rev. 1/1/2009)

Rule 5.8.2

Long Cause Rules

For any trial set on the long cause trial calendar (these rules do not apply to long cause OSCs) counsel must:

A. SEVEN COURT DAYS OR MORE BEFORE TRIAL

Personally meet and confer to exchange all of the following documents:

1. Trial statements

2. Trial briefs

3. Where support or fees are at issue, current Income and Expense Declarations including all required attachments.

4. A list of proposed exhibits and copies of actual exhibits. (In custody trials, counsel need not exchange the expert's test data, notes, etc., related to an evaluation previously performed if the data and report were previously provided to each counsel).*

5. A list designating non-party witnesses (including name, address and telephone number) and the subject matter of each witness's testimony (see attachment 2).*

B. FOUR COURT DAYS BEFORE TRIAL

1. Telephonically meet and confer to discuss stipulations on admissibility of exhibits, specifying objections to each exhibit to which admissibility is not stipulated, and discuss all aspects of any intended in limine motions.

2. If objections to exhibits are unresolved, or a motion in limine is to be filed, schedule appointment with court for pretrial conference to be held at least 2 court days before trial.

3. File with the clerk of the trial department and personally serve on opposing counsel any in limine motions.

4. Arrange with the clerk of the trial department a date and time to pre-mark exhibits and to file original exhibits.

5. File trial statement, trial brief, Income and Expense Declaration and Court's copy of the exhibits with the clerk of the trial department.

C. THREE COURT DAYS BEFORE TRIAL

File with the clerk of the trial department and personally serve on opposing counsel a written list of objections to the exhibits of the other party.

D. TWO COURT DAYS BEFORE TRIAL

If there are unresolved objections to exhibits or if motions in limine were filed, both counsel must confer personally with the Court to discuss the objections and motions. At that time, the Court may issue a tentative ruling on the issues presented.

E. DAY OF TRIAL

1. All objections to exhibits and motions in limine will be heard on the record and a ruling will be issued before the presentation of opening argument.

2. Each party must pay the mandated statutory court reporter fee for each half day of trial. It is the duty of counsel to know the amount of that fee before the day of trial so that counsel can deliver this amount to the clerk in the trial department before the start of each half day of trial. The amount must be paid in cash or check. Checks can only be from a party or the attorney's client trust account. Checks must be made payable to the Clerk of the Superior Court.

3. Each day, the morning session of trial will usually begin at 9 a.m. and end at noon with a 15 minute break at approximately 10:30 a.m. The afternoon session will usually begin at 1:30 p.m. and end at 4:30 p.m. with a 15 minute break at approximately 3:15 p.m. At the end of each day of a multi-day trial, counsel and the Court will review the next day's witnesses, examination time and any other calendaring issues.

*Any witnesses not disclosed pursuant to these rules will not be permitted to testify at trial. Any exhibits not exchanged pursuant to these rules will not be introduced at trial. The only exceptions are true impeachment or rebuttal witnesses or exhibits.